

From: [Evatt, Ebony](#)
To: [Water Policy](#)
Subject: REFERRAL-WSUD-201733198-18/11 MITCHELL-01 [SEC=UNCLASSIFIED]
Date: 22 February 2018 9:28:07 AM
Attachments: [image001.jpg](#)
[plans.obr](#)
[supporting docs.obr](#)

DEVELOPMENT APPLICATION NO: 201733198

BLOCK: 18 **SECTION:** 11 **DIVISION:** MITCHELL

Description: PROPOSAL FOR CHILDCARE CENTRE - construction of a new 3 storey childcare centre, new driveways, car park and dropoff area, landscaping and associated site works.

Pursuant to Section 148(1) of the Planning and Development Act 2007 the ACT Planning and Land Authority requests that you consider the abovementioned development application and provide any written advice no later than **15 working days** after the date of this notice **(15/03/2018)**.

In accordance with Section 150 of the Planning and Development Act 2007 If advice is not received within the prescribed time it will be taken that you have supported the application.

Please forward any written advice via email to Customer Services – EPDcustomerservices@act.gov.au

Please use the following format in the subject line of the email when providing advice:
COMM-Agency Name-20080XXXX-Block XX Section XX SuburbXXXXX-01
Example: COMM-Heritage-200801234-Block 10 Section 10 Dickson-01

Regards,
Ebony Evatt
Customer Services

Phone 02 6207 1923

Access Canberra | ACT Government

Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 158 Canberra ACT 2601

Access Canberra is an ACT Government service that brings together customer and regulatory services, including the former Environment and Planning Directorates Customer Services Team. Access Canberra has been set up to make it easier for business, community organisations and individuals to work with ACT Government and deliver a more seamless experience.

www.planning.act.gov.au | EPDcustomerservices@act.gov.au

Land titles and revenue services are moving to Dame Pattie Menzies House, 16 Challis Street, Dickson and will be co-located with the Access Canberra Environment, Planning and Land Shopfront. These services will be available at this new location from 1 December 2016. For more information visit www.act.gov.au/accessCBR

cid:image001.jpg@01D39906.DF4B3DA0





[REDACTED]@canberratownplanning.com.au

Referral-Health - DEVELOPMENT APPLICATION – Additional documents submission- 201733198- Block 18 Section 11 MITCHELL

Dear Sir/Madam,

Thank you for the submission of additional documentation regarding the proposed construction of a 130 place childcare centre within an IZ2 industrial zone in Mitchell ACT.

The Health Protection Service (HPS) notes that **Condition A2 (a)** of the Notice of Decision (NOD) issued on 18 September 2018 by the Environment Planning and Sustainable Development Directorate in relation to the development states:

Approval does not take effect until the lessee/applicant has prepared and submitted an air quality report to the satisfaction of the ACT Health Protection Service. The report must be prepared by a consultant listed on the Clean Air Society of Australia and New Zealand (CASANZ) directory <http://www.casanz.org.au/directory/>

Such a report shall discuss and demonstrate that the development subsequent use of the site as a childcare centre in the locality will not create an unacceptable risk to the health and safety of children and vulnerable uses thereof.

The report must discuss the effects of potential expansion of permitted activities by surrounding businesses and of future land uses in the surrounding area on air quality. All previous investigations upon which the report is based must be discussed within the report and copies of these reports must be provided to ACT Health Protection Service. The Lessee/applicant must comply with any additional conditions imposed by the ACT Health Protection Service as a result of the findings of this report.

The HPS has reviewed the additional documents submitted and concluded that the documents provided have not met the requirements of the NOD in that they have not demonstrated that an unacceptable risk to the health and safety of and safety of children and vulnerable users thereof will not be created by the use of the use of the site as a childcare centre.

The HPS considers that the air quality sampling undertaken to date has not covered a sufficient period of time to determine seasonal variations and to determine if the results are minimum, average or maximum concentration that would be typically found at this site for a variety of analytes. This has resulted in the Human Health Risk assessment being limited in its insight into any potential health risks posed.

To address this, an air quality sampling program based on the National Environment Protection Measures (NEPMs) should be implemented by a CASANZS listed consultant to measure the following pollutants:

- Carbon Monoxide – 1 month of hourly averages outside of December and January (note this data must be contiguous and include QA data)
- Nitrogen Dioxide – 1 month of hourly averages outside of December and January (note this data must be contiguous and include QA data)
- Ozone – 1 month of hourly averages outside of December and January (note this data must be contiguous and include QA data)
- Particulate Matter less than 10 micron (PM₁₀) – 1 month of hourly averages outside of December and January (note this data must be contiguous and include QA data) or a rolling 1 in 6 day gravimetric sampling program over 1 year
- Particulate Matter less than 2.5 microns (PM_{2.5}) – 1 month of hourly averages outside of December and January (note this data must be contiguous and include QA data) or a rolling 1 in 6 day gravimetric over 1 year
- Air toxics/Volatile Organic Compounds - A rolling 1 in 6 day sampling program over 1 year. This program should cover the common air toxics associated with motor vehicles and the established business in the area.

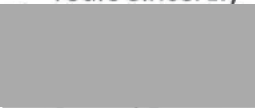
The results from the above sampling should be incorporated into a revised Human Health Risk Assessment (HHRA).

In addition, whilst the submitted report provides an identification of surrounding block usage and a list of permitted activities within these blocks, it has not met the requirements of the NOD in that it has not adequately discussed the potential expansion of permitted activities which may be enacted on these blocks (without requiring an additional development application) and the impacts such amended land uses may have on air quality at the subject site. The discussion should consider scenarios where the most harmful permitted activities are enacted on surrounding blocks and how this will affect the suitability of the site. The assessment should be incorporated into the revised HHRA and this assessment should be provided to the HPS.

The HPS considers that the protection of vulnerable populations from pollutants from current and future neighbouring industrial uses is of paramount importance and the information requested above is required to demonstrate the use of the site as a child care centre will not create an unacceptable risk to the health and safety of children and vulnerable uses thereof.

Please contact Andrew Stedman, Public Health Officer on (02) 5124 9087 or email andrew.stedman@at.gov.au you require any further information.

Yours Sincerely



Conrad Barr
Executive Branch Manager
Health Protection Service

11 December 2018

From: [EPD Customer Services](#)
To: [ED-HPS-Support](#)
Subject: REFERRAL-ACT HEALTH- 201733198-S165A-18/11 MITCHELL-01 [SEC=UNCLASSIFIED]
Date: 17 December 2018 1:04:00 PM
Attachments: [APP-201733198-S165A-01.pdf](#)
[S165STATE-201733198-S165A-01.pdf](#)
[image001.png](#)

Email 1 of 2

DEVELOPMENT APPLICATION NO: 201733198-S165A
BLOCK: 18 **SECTION:** 11 **DIVISION:** MITCHELL

Description - **Response addressing Condition A2 of the NOD provided.**

Pursuant to Section 148(1) of the *Planning and Development Act 2007* the ACT Planning and Land Authority requests that you consider the abovementioned development application and provide any written advice no later than **15 working days** after the date of this notice **(14/01/2019)**.

In accordance with Section 150 of the *Planning and Development Act 2007* If advice is not received within the prescribed time it will be taken that you have supported the application.

Please forward any written advice via email to Customer Services
EPDcustomerservices@act.gov.au

Please use the following format in the subject line of the email when providing advice:

COMM-Agency Name-20140XXXX-Block XX Section XX SuburbXXXXX-01

Example: COMM-TAMS-201401234-10/10 Dickson-01

Kind Regards

David

Phone 6207 1923

EPDCustomerServices@act.gov.au

www.act.gov.au/accesscbr

Access Canberra | ACT Government

16 Challis Street, Dickson | GPO Box 158 Canberra ACT 2601

cid:image004.png@01D3DE12.73C7D510



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Planning and Development Act 2007

Development Application

Application Number: **201733198S165A**

Type of Application

The type of application you are applying for is a S165 Amendment

Lease/Site Details

Site Number: 1

| | | | |
|----------------|---------|--------------|-------------|
| Suburb | Section | Block Number | Unit Number |
| MITCHELL | 11 | 18 | |
| Street Address | | | |
| MITCHELL | | | |

Site Number: 2

| | | | |
|----------------|---------|--------------|-------------|
| Suburb | Section | Block Number | Unit Number |
| MITCHELL | 11 | 18 | |
| Street Address | | | |
| MITCHELL | | | |

Applicant Details

ACN or ABN

66131577261

Company Name

Canberra Town Planning Pty Ltd

Position held / Title

administration assistant

Salutation

None

First Name

Jodie

Surname

Roberson

Postal Address 1

5/32 Lonsdale Street

Postal Address 2

Postal Address 3

Suburb

Dickson

State/Territory

ACT

Postcode

2602

Country

Australia

Phone Number

0262625091

Fax Number

Mobile Number

Email

admin@canberratownplanning.com.au

Lessee (Property Owners) Details

Lessee Number: 1

Is the Lessee a

Company

Australian Company Number (ACN)

49088414742

Company Name

Konstantinou Developments Pty Ltd

Position held / Title

Director

Salutation

None

First Name

John

Surname

Konstantinou

Postal Address 1

PO Box 222

Postal Address 2

Postal Address 3

Suburb

Mitchell

State/Territory

ACT

Postcode

2911

Country

Australia

Phone Number

0262423933

Fax Number

Mobile Number

0419654655

Email

List Amendments Being Satisfied

Response addressing Condition A2 of the NOD provided.

Applicant Declaration

I/we declare that this application is accompanied by all of the required information or documents that address the relevant rules and/or relevant criteria for it to be considered for approval;

I /we understand that this application will be considered lodged once any relevant application fees have been paid;

I/we understand that the documentation provided on CD/DVD or via the electronic lodgment process will be considered to be the relevant documentation associated with this application. All development application documentation will be made available for public inspection including via the Internet unless exclusion has been approved; I/we understand that an amendment may be notified in accordance with the requirements of the Planning and Development Act 2007.

I/we declare that all the information given on this form and its attachments is true and complete;

If signing on behalf of a company, organisation or Government agency: -

I/we the undersigned, declare I/we have the appropriate delegation or authority to sign on behalf of the company, organisation or Government agency.

I accept the above declarations:

Accept

Acceptance Date

6/11/2018

From: [EPD Customer Services](#)
To: [ED-HPS-Support](#)
Subject: REFERRAL-ACT HEALTH- 201733198-S165A-18/11 MITCHELL-02 [SEC=UNCLASSIFIED]
Date: 17 December 2018 1:04:00 PM
Attachments: [S165STATE-201733198-S165A-03.pdf](#)
[S165STATE-201733198-S165A-02.pdf](#)
[image001.png](#)

Email 2 of 2

DEVELOPMENT APPLICATION NO: 201733198-S165A
BLOCK: 18 **SECTION:** 11 **DIVISION:** MITCHELL

Description - **Response addressing Condition A2 of the NOD provided.**

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Example: COMM-TAMS-201401234-10/10 Dickson-01

Kind Regards

David

Phone 6207 1923

EPDCustomerServices@act.gov.au

www.act.gov.au/accesscbr

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cid:image004.png@01D3DE12.73C7D510



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Hill, Libby

From: ACT GOV DA SIGNAGE <dasingage@tenderedge.com.au>
Sent: 26 February 2018 11:46 AM
To: EPD, Customer Services
Subject: Re: 1 LARGE & 2 STANDARD SIGNS FOR MONDAY 26 FEBRUARY 2018 (18/11 MITCHELL)
[SEC=UNCLASSIFIED]





On 22 February 2018 at 11:46, EPD, Customer Services <EPDCustomerServices@act.gov.au> wrote:

Hi Gary & Team,

Please see the attached map and sign request to be actioned.

Thank you.

Kind Regards,

Ebony

Phone 02 6207 1923

Customer Services | Access Canberra

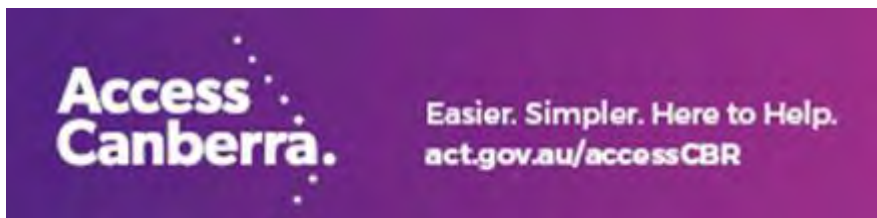
Environment, Planning and Land

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Unit 7, 196-198 Gladstone Street
FYSHWICK ACT 2609
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E: dassignage@tenderedge.com.au
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Hill, Libby

From: ACT GOV DA SIGNAGE <dasignage@tenderedge.com.au>
Sent: 26 February 2018 11:47 AM
To: EPD, Customer Services
Subject: Re: 1 LARGE & 2 STANDARD SIGNS FOR MONDAY 26 FEBRUARY 2018 (18/11 MITCHELL)
[SEC=UNCLASSIFIED]





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Thank you.

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Phone 02 6207 1923

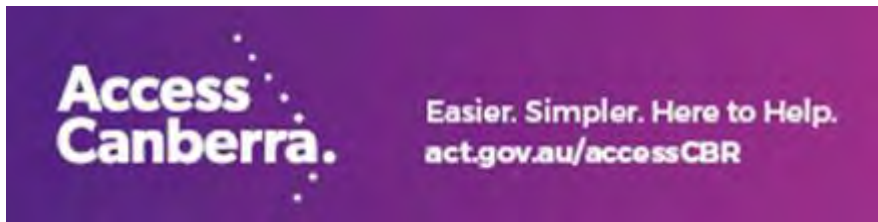
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ACT
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Environment, Planning and
Sustainable Development

22 February 2018

NOTE: If you are not the owner of this property please forward this letter to your landlord or managing agent

THE RESIDENT
2 HEFFERNAN STREET
MITCHELL ACT 2911

Dear Property Owner

The following Development Application in relation to CNR HEFFERNAN STREET & DARLING STREET has been lodged with the Planning and Land Authority for consideration.

Development Application 201733198:

PROPOSAL FOR CHILDCARE CENTRE - Construction of a new 3 storey childcare centre, new driveways, car park and drop-off area, landscaping and associated site works.

**Location: Block: 18 Section: 11 Suburb: MITCHELL
CNR HEFFERNAN STREET & DARLING STREET**

If you feel an application may impact on you in any way you may wish to submit a written representation clearly stating the reasons for your submission.

The application is available for public inspections between 8.30am and 4.30pm weekdays at:

**Environment, Planning and Sustainable Development Directorate
Customer Service Centre
Dame Pattie Menzies House
Ground Floor (right hand building)
16 Challis Street, DICKSON ACT**

Please bring this letter with you for reference.

The application can also be viewed on the Authority website
<http://www.act.gov.au/developmentapplications>

Representations **must** be made within the specified public notification period to be considered during the assessment of the application. Representations received outside the notification period **will not** be considered.

The public notification period will commence on **27 February 2018**
Representations must be received by the Authority by close of business **20 March 2018**.

Representations can be submitted in the following ways:

Online:
www.act.gov.au/DArepresentation

Post:
Customer Service

By Hand:
Dame Pattie Menzies

Environment, Planning and Sustainable Development Directorate

Customer Service Centre

16 Challis Street, Dickson

PO Box 365, Mitchell, ACT 2911 • Telephone: (02) 6207 1923 • Email: epdcustomerservices@act.gov.au

Website: www.planning.act.gov.au

Centre
PO Box 365
Mitchell ACT 2911

House
16 Challis Street,
DICKSON ACT

It is standard practice for the Authority to acknowledge, in writing, any representations received as a result of public notification within 3-4 business days of the submission being received. If you don't receive this acknowledgement please contact the Authority. If you make your representation within the prescribed notification period the issues raised in your submission will be taken into consideration during the assessment of the development application and you will be notified in writing once the decision has been made.

A copy of your representation will be forwarded to the development application applicant and placed on the public register unless exclusion has been granted.

You may request to have part or all of your representation excluded from the public register under Sections 411 or 412 of the *Planning and Development Act 2007*. The request for exclusion must be in writing and clearly identify what you are seeking to exclude and how the request satisfies the exclusion criteria. The Authority may approve or refuse to approve an exclusion application.

If your request for exclusion is approved the Authority will seek to protect the information from disclosure. However, the Authority can not guarantee that the information will not have to be disclosed pursuant to a legal obligation.

If you would like any further information in relation to this letter please contact the Dickson Customer Service Centre on (02) 6207 1923 or email epdcustomerservices@act.gov.au

Yours faithfully

Customer Services
Environment, Planning and Sustainable Development Directorate

1 LARGE SIGN & 2 STANDARD SIGNS FOR MONDAY 26TH
FEBRUARY

MITCHELL
Block 18 Section 11

27 February 2018 to 20 March 2018

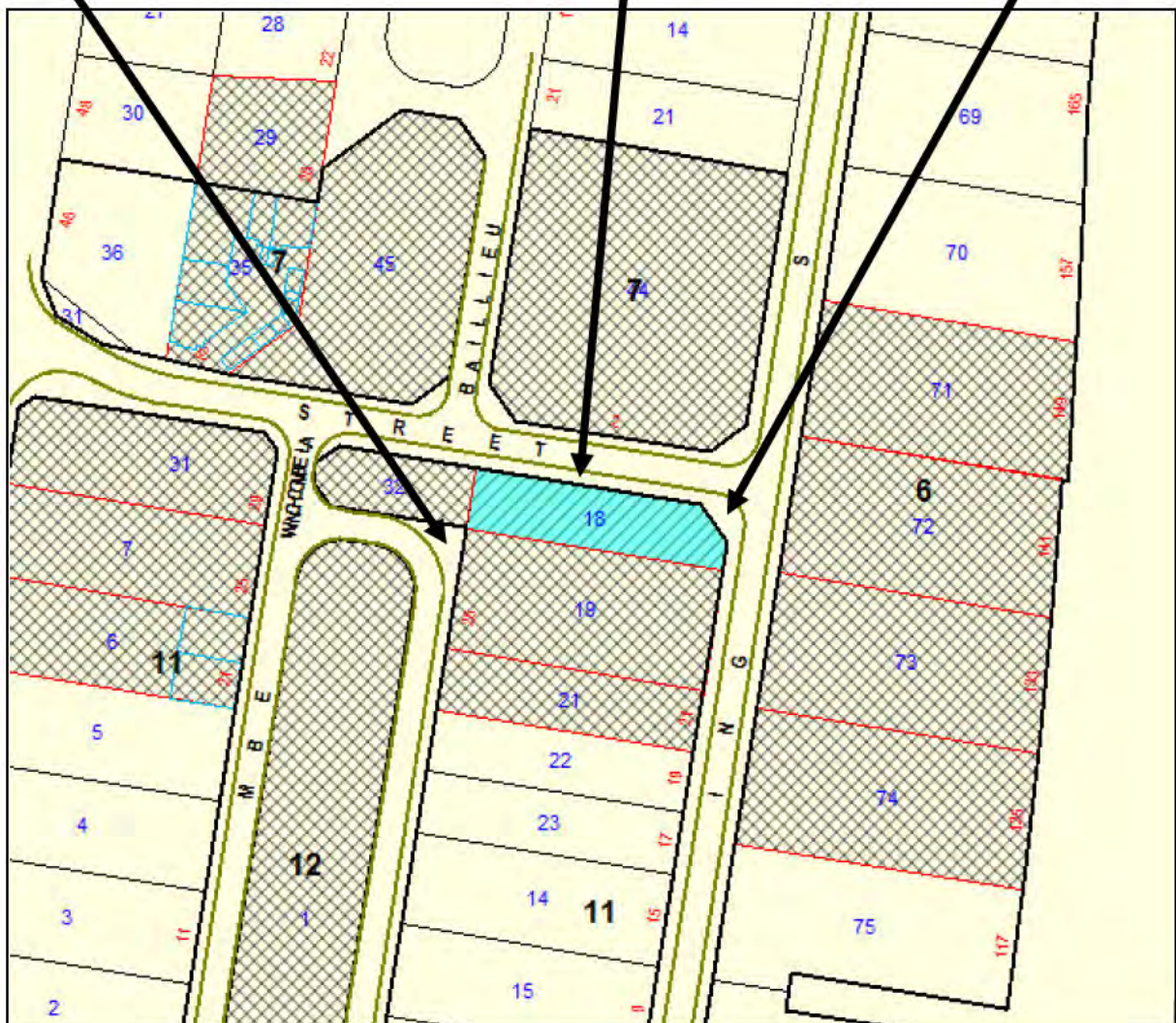
Development Application
201733198

CNR HEFFERNAN STREET & DARLING SREET

Standard Sign

Standard Sign

Lrg Sign



0 25 50 75 100



metres



Name,Address1,Address2,Address3,Address4

KONSTANTINOU DEVELOPMENTS PTY LTD,RSM BIRD CAMERON LEVEL1 103-105
NORTHBOURNE AVENUE CANBERRA,,

ARPM PTY LTD,ANNETTE POGAS,LEVEL 5, TOWER A,7 LONDON CCT,CANBERRA ACT 2601

The Resident,21 WINCHCOMBE COURT,MITCHELL ACT 2911,

The Resident,21 DARLING STREET,MITCHELL ACT 2911,

The Resident,125 FLEMINGTON ROAD,MITCHELL ACT 2911,

The Resident,25 WINCHCOMBE COURT,MITCHELL ACT 2911,

The Resident,29 WINCHCOMBE LANE,MITCHELL ACT 2911,

The Resident,WINCHCOMBE COURT,MITCHELL ACT 2911,

The Resident,26 BAILLIEU COURT,MITCHELL ACT 2911,

The Resident,32 HEFFERNAN STREET,MITCHELL ACT 2911,

The Resident,26 WINCHCOMBE COURT,MITCHELL ACT 2911,

The Resident,133 FLEMINGTON ROAD,MITCHELL ACT 2911,

The Resident,141 FLEMINGTON ROAD,MITCHELL ACT 2911,

The Resident,149 FLEMINGTON ROAD,MITCHELL ACT 2911,

The Resident,2 HEFFERNAN STREET,MITCHELL ACT 2911,



ACT
Government

Environment, Planning and
Sustainable Development

22 February 2018

ArPM PTY LTD
ANNETTE POGAS
LEVEL 5, TOWER A
7 LONDON CCT
CANBERRA ACT 2601

Dear Applicant

**Suburb: MITCHELL Block: 18 Section: 11
Development Application Number: 201733198**

The *Planning and Development Act 2007* requires the above-mentioned development application to be publically notified. This process includes a written notice being sent to adjoining lessees and a sign placed on the property.

The public notification period for your application will commence on **27 February 2018** and end at the close of business on **20 March 2018**. Representations must be made within the notification period to be considered during the assessment of the application. A copy of any representations received as a result of this process will be forwarded to you.

Please note, the sign will be removed from the property on 21 March 2018.

The prescribed period for making a decision on your application is 30 working days from the date of lodgement. However, if representations are received as a result of the public notification process the time frame for making a decision will be extended by an additional 15 working days.

If the time for deciding the application (the prescribed period) has ended and a decision has not been reached your application will be deemed refused. The Planning and Land Authority (the Authority) will not provide written advice of this decision. It is important to note that the Authority is still able to finalise its consideration of your application and make a decision after the expiration of the prescribed period.

You will be advised when a decision on your application has been made and of any appeal rights that may be applicable.

If you would like any further information in relation to this letter please contact the Customer Service Centre on (02) 6207 1923 or email epdcustomerservices@act.gov.au

Customer Service Centre

Environment, Planning and Sustainable Development Directorate

Customer Service Centre

16 Challis Street, Dickson

PO Box 365, Mitchell, ACT 2911 • Telephone: (02) 6207 1923 • Email epdcustomerservices@act.gov.au

Website: www.planning.act.gov.au

JOB REPORT - Public Notification Generator

JOB DATE: 22 February 2018 10:18 am
JOB CODE: 094722
OPERATOR: EBONY EVATT

Development Application 201733198

PUBLIC NOTIFICATION

Application lodged on 16 February 2018.

Notification begins on 27 February 2018 and ends on 20 March 2018.

SUBJECT BLOCK

BLOCK: MITCHELL SECTION 11 BLOCK 18
STREET ADDRESS: CNR HEFFERNAN STREET & DARLING STREET
LESSEE(S): KONSTANTINOUC DEVELOPMENTS PTY LTD
ADDRESS: RSM BIRD CAMERON LEVEL 1 103-105 NORTHBOURNE AVENUE
CANBERRA

APPL_TYPE: SUBC
DEV_DESC: PROPOSAL FOR CHILDCARE CENTRE - Construction of a new 3 storey
childcare centre, new driveways, car park and drop-off area, landscaping and
associated site works.

NEIGHBOURING LESSEES

1. BLOCK: MITCHELL SECTION 7 BLOCK 44
NAME(S): THE RESIDENT
ADDRESS: 2 HEFFERNAN STREET
MITCHELL ACT 2911

2. BLOCK: MITCHELL SECTION 6 BLOCK 71
NAME(S): THE RESIDENT
ADDRESS: 149 FLEMINGTON ROAD
MITCHELL ACT 2911

3. BLOCK: MITCHELL SECTION 6 BLOCK 72
NAME(S): THE RESIDENT
ADDRESS: 141 FLEMINGTON ROAD
MITCHELL ACT 2911

4. BLOCK: MITCHELL SECTION 6 BLOCK 73
NAME(S): THE RESIDENT

- ADDRESS: 133 FLEMINGTON ROAD
MITCHELL ACT 2911
5. BLOCK: MITCHELL SECTION 11 BLOCK 19
NAME(S): THE RESIDENT
ADDRESS: 26 WINCHCOMBE COURT
MITCHELL ACT 2911
6. BLOCK: MITCHELL SECTION 7 BLOCK 35
NAME(S): THE RESIDENT
ADDRESS: 32 HEFFERNAN STREET
MITCHELL ACT 2911
7. BLOCK: MITCHELL SECTION 4 BLOCK 29
NAME(S): THE RESIDENT
ADDRESS: 26 BAILLIEU COURT
MITCHELL ACT 2911
8. BLOCK: MITCHELL SECTION 12 BLOCK 1
NAME(S): THE RESIDENT
ADDRESS: WINCHCOMBE COURT
MITCHELL ACT 2911
9. BLOCK: MITCHELL SECTION 11 BLOCK 31
NAME(S): THE RESIDENT
ADDRESS: 29 WINCHCOMBE LANE
MITCHELL ACT 2911
10. BLOCK: MITCHELL SECTION 11 BLOCK 7
NAME(S): THE RESIDENT
ADDRESS: 25 WINCHCOMBE COURT
MITCHELL ACT 2911
11. BLOCK: MITCHELL SECTION 6 BLOCK 74
NAME(S): THE RESIDENT
ADDRESS: 125 FLEMINGTON ROAD
MITCHELL ACT 2911
12. BLOCK: MITCHELL SECTION 11 BLOCK 21
NAME(S): THE RESIDENT
ADDRESS: 21 DARLING STREET
MITCHELL ACT 2911
13. BLOCK: MITCHELL SECTION 11 BLOCK 6
NAME(S): THE RESIDENT
ADDRESS: 21 WINCHCOMBE COURT
MITCHELL ACT 2911

APPLICANTS

1. NAME(S): ARPM PTY LTD
ADDRESS: ANNETTE POGAS
LEVEL 5, TOWER A
7 LONDON CCT

SUMMARY

No of lessee notifications created = 13
No of developer notifications created = 0
No of interested party notifications created = 0
No of advertisement authorisation letters created = 1
No of outdoor signs created = 1
No of letters to applicants created = 1



ACT
Government

Environment, Planning and
Sustainable Development

22 February 2018

KONSTANTINOU DEVELOPMENTS PTY LTD
JOHN KONSTANTINOU
PO BOX 222
MITCHELL ACT 2911

Dear Property Owner

Suburb: MITCHELL Block: 18 Section: 11
Development Application Number: 201733198

The *Planning and Development Act 2007* requires the above-mentioned development application recently lodged on your behalf to be publically notified. Letters have been sent to the owners of the properties that adjoin the proposed development and a sign placed on the property.

The notification period commences on **27 February 2018** and ends at the close of business on **20 March 2018**. A copy of any representations received as a result of this process will be forwarded to the applicant.

The prescribed period for making a decision on your application is 30 working days from the date of lodgement. However, if representations are received as a result of the public notification process the time frame for making a decision will be extended by an additional 15 working days.

If the time for deciding the application (the prescribed period) has ended and a decision has not been reached your application will be deemed refused. The Planning and Land Authority (the Authority) will not provide written advice of this decision. It is important to note that the Authority is still able to finalise its consideration of your application and make a decision after the expiration of the prescribed period.

The applicant will be advised when a decision on your application has been made and of any appeal rights that may be applicable.

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16 Challis Street, Dickson

PO Box 365, Mitchell, ACT 2911 • Telephone: (02) 6207 1923 • Email: epdcustomerservices@act.gov.au

Website: www.planning.act.gov.au

NOTICE OF DEVELOPMENT APPLICATION

Development Application 201733198:

PROPOSAL FOR CHILDCARE CENTRE - Construction of a new 3 storey childcare centre, new driveways, car park and drop-off area, landscaping and associated site works.

Location: **Block: 18 Section: 11 Suburb: MITCHELL**
CNR HEFFERNAN STREET & DARLING STREET

If you feel an application may impact on you in any way you may wish to submit a written representation clearly stating the reasons for your submission.

The application is available for public inspection between 8.30am and 4.30pm weekdays at the **Customer Services Centre, Dame Pattie Menzies House, Ground Floor (right hand building), 16 Challis Street, DICKSON ACT.**

An electronic version of the application can also be viewed on the Environment, Planning and Sustainable Development website - www.planning.act.gov.au (under 'Comment on a DA')

The public notification period will commence on **27 February 2018**
Written representations **must** be received by the Authority by close of business **20 March 2018.**

Representations can be submitted in the following ways:

Online:

www.act.gov.au/DArepresentation

Post:

Customer Services
Centre
PO Box 365
Mitchell ACT 2911

By Hand:

Dame Pattie Menzies
House
16 Challis Street,
DICKSON ACT

It is standard practice for the Authority to acknowledge, in writing, any representations received as a result of public notification within 3-4 business days of the submission being received. If you don't receive this acknowledgement please contact the Authority. If you make your representation within the prescribed notification period the issues raised in your submission will be taken into consideration during the assessment of the development application and you will be notified in writing once the decision has been made.

A copy of your representation will be forwarded to the development application applicant and placed on the public register unless exclusion has been granted. The Planning and Land Authority may approve or refuse to approve an exclusion application (see website for further information).

For more information, please phone the Dickson Customer Service Centre on 6207 1923

From: [EPD Customer Services](#)
To: ["info@arpm.net.au"](mailto:info@arpm.net.au)
Cc: ["john.konstantinou@kgroup.com.au"](mailto:john.konstantinou@kgroup.com.au)
Subject: CLOSE OF PUBLIC NOTIFICATION-201733198-18/11 MITCHELL-(No Representations Received)
[SEC=UNCLASSIFIED]
Date: 23 March 2018 10:13:00
Attachments: [image001.jpg](#)

CLOSE OF PUBLIC CONSULTATION PERIOD

BLOCK 18 SECTION 11 SUBURB MITCHELL

The public consultation period for DA 201733198 has now closed.

No representations were received by the Environment and Planning Directorate during the public consultation period.

You will be advised in writing of the decision as soon as the DA has been determined.

If you require any further information please contact (02) 6207 1923.

Kind Regards

Katherine

Phone 6207 1923

EPDCustomerService@act.gov.au

www.act.gov.au/accesscbr

Access Canberra | **ACT Government**

16 Challis Street, Dickson | GPO Box 158 Canberra ACT 2601

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Access Canberra is an ACT Government service that brings together customer and regulatory services, including the former Environment and Planning Directorates Customer Services Team. Access Canberra has been set up to make it easier for business, community organisations and individuals to work with ACT Government and deliver a more seamless experience.

From: [Tom.Corkhill](#)
To: [EPD, Customer Services](#)
Cc: [Stokman, Luke](#)
Subject: DA 201733198 Mitchell
Date: 22 May 2018 11:38:36
Attachments: [DA 201733198.pdf](#)

Dear Sir/Madam,

I refer to the recent Development Application for a Childcare Centre at Block 18 Section 11 Mitchell, corner of Heffernan and Darling Streets (copy attached).

By way of background, we are the lessee of Block 44 Section 7 Mitchell.

Notification of the DA was sent to 2 Heffernan Street, Mitchell. These premises are occupied by our tenant and the letter was never received by us. It was only recently that the proposal for a Childcare Centre was brought to our attention whereupon we started to make enquiries regarding the DA.

We acknowledge that the period to lodge a representation closed on 20 March 2018 however as we did not receive the DA notification and we have just become aware of it, we wish to make the following representations:

1. We have been in business in Canberra since 1954 and have occupied the site in Mitchell for many years.
2. The Land is run as a high quality bulky landscape supplies and bulky goods retailing centre, in compliance with our Lease Purpose conditions.
3. The bulky landscape supplies includes the sale of sand, soil, screenings and other garden materials.
4. The Land has a building and loading dock and direct vehicle access to the site by members of the public to load goods or materials into their vehicles after purchase. There is also access for mid-size and large trucks to deliver the landscape supplies.
5. A Childcare Centre Facility would risk putting us in breach of the obligations in our Lease to ensure that our use of the Land does not adversely impact the environmental quality of the locality. We are concerned about complaints likely to be received from such a facility regarding the noise and possible smells emanating from our retail operations. We are also concerned about complaints likely to be received regarding the safety of children including the traffic congestion with drop off and pick up times taking place as heavy trucks deliver landscape materials and members of the public with trailers are visiting the Land.

The proposed Childcare Centre is in close proximity to our Mitchell Land and will have a material and adverse impact on our use and enjoyment of the Land.

We respectfully request that you take these representations into account when considering the DA.

Regards

Tom Corkhill
Director
Corkhill Bros



ACT
Government

Environment, Planning and
Sustainable Development

22 February 2018

NOTE: If you are not the owner of this property please forward this letter to your landlord or managing agent

THE RESIDENT
2 HEFFERNAN STREET
MITCHELL ACT 2911

Dear Property Owner

The following Development Application in relation to CNR HEFFERNAN STREET & DARLING STREET has been lodged with the Planning and Land Authority for consideration.

Development Application 201733198:

PROPOSAL FOR CHILDCARE CENTRE - Construction of a new 3 storey childcare centre, new driveways, car park and drop-off area, landscaping and associated site works.

Location: **Block: 18 Section: 11 Suburb: MITCHELL**
CNR HEFFERNAN STREET & DARLING STREET

If you feel an application may impact on you in any way you may wish to submit a written representation clearly stating the reasons for your submission.

The application is available for public inspections between 8.30am and 4.30pm weekdays at:

**Environment, Planning and Sustainable Development Directorate
Customer Service Centre
Dame Pattie Menzies House
Ground Floor (right hand building)
16 Challis Street, DICKSON ACT**

Please bring this letter with you for reference.

The application can also be viewed on the Authority website

<http://www.act.gov.au/developmentapplications>

Representations **must** be made within the specified public notification period to be considered during the assessment of the application. Representations received outside the notification period **will not** be considered.

The public notification period will commence on **27 February 2018**

Representations must be received by the Authority by close of business **20 March 2018**.

Representations can be submitted in the following ways:

Online:

Post:

By Hand:

**Environment, Planning and Sustainable Development Directorate
Customer Service Centre**

16 Challis Street, Dickson

PO Box 365, Mitchell, ACT 2911 • Telephone: (02) 6207 1923 • Email: epdcustomerservices@act.gov.au

Website: www.planning.act.gov.au

www.act.gov.au/DArepresentation

Customer Service
Centre
PO Box 365
Mitchell ACT 2911

Dame Pattie Menzies
House
16 Challis Street,
DICKSON ACT

It is standard practice for the Authority to acknowledge, in writing, any representations received as a result of public notification within 3-4 business days of the submission being received. If you don't receive this acknowledgement please contact the Authority. If you make your representation within the prescribed notification period the issues raised in your submission will be taken into consideration during the assessment of the development application and you will be notified in writing once the decision has been made.

A copy of your representation will be forwarded to the development application applicant and placed on the public register unless exclusion has been granted.

You may request to have part or all of your representation excluded from the public register under Sections 411 or 412 of the *Planning and Development Act 2007*. The request for exclusion must be in writing and clearly identify what you are seeking to exclude and how the request satisfies the exclusion criteria. The Authority may approve or refuse to approve an exclusion application.

If your request for exclusion is approved the Authority will seek to protect the information from disclosure. However, the Authority can not guarantee that the information will not have to be disclosed pursuant to a legal obligation.

If you would like any further information in relation to this letter please contact the Dickson Customer Service Centre on (02) 6207 1923 or email epdcustomerservices@act.gov.au

Yours faithfully

Customer Services
Environment, Planning and Sustainable Development Directorate

From: [Tom.Corkhill](#)
To: [EPD_Customer_Services](#)
Subject: DA 201733198 Block 18 Section 11 Mitchell
Date: 8 March 2019 20:44:40
Attachments: [EPSDD 8 March 2019.pdf](#)

Dear Sir/Madam,

Please find attached our letter in relation to DA 201733198 Block 18 Section 11 Mitchell.

Regards

Tom Corkhill

8th March 2019

Applications Secretariat
Environment Planning and Sustainable Development Directorate
16 Challis Street
Dickson ACT

By email: EPDCustomerservices@act.gov.au

Dear Sir/Madam

RE: Development Approval, Block 18 Section 11 Mitchell

CNR HEFFERNAN STREET & DARLING STREET

Corkhill Brothers Pty Ltd is the crown lessee of Block 44 section 7 Mitchell which is adjacent to block 18 on which a development application for a child care centre has recently been approved.

The portion of Block 44 that is immediately adjacent to Block 18 accommodates a landscape supply business that has been in operation for 20 years. This activity is fully in accord with the intent of the industrial zoning (IZ2 Mixed use industrial) which applies to this part of Mitchell.

As an immediate neighbour to the proposed child care centre we have a clear interest in this matter and understand that notification of the proposal was forwarded to the occupant of part of our site as part of the formal public notification requirements. The occupant is a tenant as this business is not directly operated by Corkhill Brothers.

The public notification requirements are set out in the Planning and Development Act at section 153 and require that notice is given as follows:

(2) If the adjoining place is occupied, the planning and land authority must give written notice of the making of the development application to the registered proprietor of the lease of the adjoining place at the adjoining place

We understand that this was done and that a communication addressed to Corkhill was delivered to our lease, Block 44. Unfortunately, due to the recalcitrance of the tenant we did not become aware of this matter until after the end of the statutory notification period. A telephone call from us to the Planning Authority resulted in the advice that as the notification period had ended any representation from us would not have been considered. Had the opportunity not been missed we would indeed have objected to this proposal.

The lack of input on our part should not, in the event, have made any substantive difference to your assessment of the proposal as we understand that the Environment Protection Agency (EPA) did indeed object to the proposal and they would have raised the same as issues as would have been raised by us.

Now that we have become aware of the matter, we have given it some consideration as follows:

The objectives for this zone, as set out in the Territory Plan are as follows and would seem to clearly preclude the introduction of sensitive community uses such as child care:

***IZ2 - Industrial Mixed Use Zone
Zone Objectives***

- a) Support the diversification and expansion of the ACT's industrial base and employment growth*
- b) Facilitate investment in a wide range of industrial and related activities, with efficient land utilisation and provision of infrastructure*
- c) Provide convenient access for ACT and regional residents to industrial goods, services and employment opportunities, including by encouraging active travel and access to public transport.*
- d) Ensure that industrial development achieves high environmental standards of cleaner production, waste disposal, noise and air quality*
- e) Encourage the design and construction of industrial and commercial buildings that are energy efficient, functional and flexible*
- f) Ensure that development along major approach routes and major roads meets appropriate standards of urban design*
- g) Accommodate industry-associated retailing, services and other commercial uses without jeopardising an adequate supply of industrial land*
- h) Provide for a range of commercial and service activities at a scale that will protect the planned hierarchy of commercial centres and the Territory's preferred locations for office development*
- i) Meet the need for a mix of lower rent bulky goods retailing, specialised industrial, commercial and service activities alongside general industry*
- j) Preserve and promote viable industries that can coexist with more commercially oriented uses*
- k) Make provision for small-scale services that support surrounding industrial activities, or which meet the needs of the local workforce*
- l) The following Zone Objectives apply specifically to West Fyshwick:*
 - i) Encourage Canberra's regional role for food processing, wholesaling, distribution and marketing*
 - ii) Cluster uses which are compatible with and complementary to existing facilities, particularly with regard to food processing and warehousing and the markets, including some small scale food retailing*
 - iii) Protect the safety and amenity of food related enterprises*

iv) Promote buildings along Canberra Avenue that maintain and enhance a character appropriate for a major approach road to the Central National Area

However, we note that a "child care centre" is indeed an approvable use as it comes within the definition of "community use" which is permissible in the industrial zone.

A child care centre would seem to be incompatible with all of these objectives.

The apparent contradiction is remedied by the Territory Plan which includes a specific control on this matter.

The Industrial Zones Development Code includes a section (Element 1.1) that imposes restrictions on various uses. The intent of element 1.1 is twofold:

a) To provide for sufficient land to meet the industrial needs of the ACT

b) To ensure that uses ancillary to the Industrial Zone remain subordinate to primary uses and ensure an appropriate level of amenity for users

This intent is put into effect by way of rule C3 in the code which says as follows:

C3: Community uses are to be considered only where it is demonstrated that the proposed use does not jeopardise the use of surrounding land for industrial purposes.

Our concern is that the ordinary operation of our industrial activity, which has never resulted in any complaints from neighbours in the past, may result in complaints by future occupants of the child care centre and that, via EPA processes, these could result in the imposition of operational restrictions that may indeed jeopardise the use of our land.

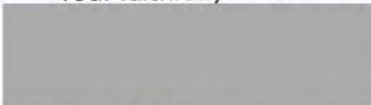
This is a matter of great concern to us and a matter on which we would like to be as fully informed as possible.

In this regard and noting that as a neighbour and potential objector all relevant information would have been available to us but for the recalcitrance of our tenant (a matter beyond our control), we request that you provide us with copies of the plans as approved and the notice of decision and associated conditions.

This will enable us to ascertain the way in which the development is proposed to proceed, and how it will be able to do so without jeopardizing our land use.

An understanding of these factors will be important for us if in the future we are faced with a complaint scenario.

Your faithfully



Tom Corkhill
Director

From: [EPD, Customer Services](#)
To: tom.corkhill@corkhillbros.com.au
Subject: Notices of Decisions for DA 201733198 - 18/11 Mitchell
Date: 12 March 2019 13:46:00
Attachments: [20180918 - S196 Formal Correction Letter - signed.pdf](#)
[NOTICE OF DECISION-201733198-SIGNED.pdf](#)
[NOTICE OF DECISION-201733198-RECONSIDERATION-SIGNED-01.pdf](#)
[image001.png](#)

Good afternoon,

Please find attached the Original Notice of Decision, The Formal Correction Letter and the Reconsideration Notice of Decision.

Unfortunately there are no approved plans to forward on at this point.

If you would like further information regarding this proposed development, please contact Hayden Pini directly (number is on the Notice of Decision).

Kind Regards,

Samantha | Assistant Manager - Customer Coordination

Phone: 02 6207 1923 | Email: epdcustomerservices@act.gov.au

Access Canberra | Chief Minister Treasury and Economic Development Directorate | ACT Government

16 Challis Street Dickson, ACT 2601 | GPO Box 158 Canberra ACT 2601 |

www.act.gov.au/accessCBR

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ACT
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Environment, Planning and
Sustainable Development

ArPM Pty Ltd
info@arpm.net.au

Dear ArPM Pty Ltd

BLOCK 11 SECTION 18 - MITCHELL
Application Number: 201733198
Lessee: Konstantinou Developments Pty Ltd

I refer to the Notice of Decision dated 21 May 2018 concerning the above application.

Conditions A1 and A2 of the decision needs to be amended to clarify the respective roles and requirements of the Environment Protection Authority and the ACT Health Protection Service in giving effect to the development approval.

Consequently, in accordance with section 196 of the *Planning and Development Act 2007*, the Notice of Decision dated 21 May 2018 is formally corrected as follows.

Condition A1:

Change condition A1 to read as follows:

A1. ENVIRONMENT PROTECTION AUTHORITY – APPROVAL DOES NOT TAKE EFFECT

- a) The approval **does not take effect** until the lessee/applicant has provided the Environment Protection Authority with the air quality report referred to in A2.
- b) The lessee/applicant must comply with any future requests of the Environment Protection Authority to access the site for the purpose of carrying out its own air quality testing from time-to-time.

Note: Evidence of compliance with this condition must be provided to the planning and land authority. Any substantial changes to the development required as a result of Environment Protection Authority requirements will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the *Planning and Development Act 2007*.

Condition A2:

Change condition A2 to read as follows:

A2. ACT HEALTH PROTECTION SERVICE – APPROVAL DOES NOT TAKE EFFECT

- a) The approval does not take effect until the lessee/applicant has prepared and submitted an air quality report to the satisfaction of the ACT Health Protection

Service. The report must be prepared by a consultant listed on the Clean Air Society of Australia and New Zealand (CASANZ) directory <https://www.casanz.org.au/directory/> .

Such a report shall discuss and demonstrate that the development and subsequent use of the site as a Childcare Centre in the locality will not create an unacceptable risk to the health and safety of children and vulnerable users thereof. The report must discuss the effects of potential expansion of permitted activities by surrounding businesses and of future land uses in the surrounding area on air quality. All previous investigations upon which the report is based must be discussed within the report and copies of these reports must be provided to ACT Health Protection Service. The lessee/applicant must comply with any additional conditions imposed by the ACT Health Protection Service as a result of the findings of this report.

- b) The lessee/applicant must ensure that all water outlets supplied by rainwater are clearly labelled as being provided with non-potable water and must also ensure that they are located in areas inaccessible to children OR provided with tamperproof fittings.
- c) The lessee/applicant must ensure that a food business license is obtained from the Health Protection Service prior to completion of the development.


Note: Evidence of compliance with this condition must be provided to the planning and land authority. Any substantial changes to the development required for the ACT Health Protection Service endorsement will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the *Planning and Development Act 2007*.

The remaining conditions of approval set out in the Notice of Decision dated 21 May 2018 will continue to apply.

The contact person in the ACT Health Protection Service for the purpose of corrected condition A2 is Mr Andrew Stedman (A/g Manager Environment and Radiation Safety) and can be contacted on 6205 4404 or by email Andrew.Stedman@act.gov.au .

If you wish to discuss this matter further, please contact me on 6207 6804 or by email: George.Cilliers@act.gov.au .

Yours sincerely



George Cilliers
Delegate of the planning and land authority
Environment, Planning & Sustainable Development Directorate
18 September 2018



ACT
Government

Environment, Planning and
Sustainable Development

Notice of decision

Under Part 7 of the *Planning and Development Act 2007*

Merit track

| | | |
|--|--------------------------------------|-------------------------|
| DA NO: 201733198 | DATE LODGED: 16 February 2018 | |
| DATE OF DECISION: 21 May 2018 | | |
| BLOCK: 18 | SECTION: 11 | SUBURB: MITCHELL |
| STREET NO AND NAME: Corner of Heffernan Street and Darling Street, Mitchell | | |
| APPLICANT: Arpm Pty Ltd | | |
| LESSEE: Konstantinou Developments Pty Ltd | | |

THE DECISION

This application was lodged in the merit track. Pursuant to section 113(2) of the *Planning and Development Act 2007* (Act), the application must be assessed according to the provisions relevant to merit track applications.

I, George Cilliers, delegate of the planning and land authority, pursuant to section 162 of the Act, hereby **approve subject to conditions** the proposal for:

- **construction of a new 3 storey childcare centre, new driveways, car park and dropoff area, landscaping and associated site works;**

in accordance with the plans, drawings and other documents and items submitted with the application approval and endorsed as forming part of this approval.


This decision is subject to the conditions of approval at **PART 1** being satisfied. Please note that plans will not be dispatched until all conditions are satisfied.

PART 2 sets out the Reasons for the Decision.

PART 3 is Public Notification and Entity Advice.

PART 4 contains administrative information relating to the determination.

DELEGATE


George Cilliers
Delegate of the planning and land authority
Environment, Planning and Sustainable Development Directorate
21 May 2018

CONTACT OFFICER

Hayden Pini
Phone: 62078728
Email: Hayden.Pini@act.gov.au

**PART 1
CONDITIONS OF APPROVAL**

This application is approved subject to the following conditions being satisfied. Some conditions of approval will require attention before the approved drawings will be released, others before work commences or before the completion of building work.

A. ADMINISTRATIVE / PROCESS CONDITIONS**A1. ENVIRONMENT PROTECTION AUTHORITY – APPROVAL DOES NOT TAKE EFFECT**

- a) The approval **does not take effect** until the lessee/applicant has obtained written endorsement from the Environment Protection Authority and submits such endorsement to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The lessee/applicant must comply with any conditions imposed by the Environment Protection Authority.

Note: Any substantial changes to the development required for the Environment Protection Authority endorsement will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.

A2. ACT HEALTH PROTECTION SERVICE – APPROVAL DOES NOT TAKE EFFECT

- a) The approval **does not take effect** until the lessee/applicant has obtained written endorsement from the ACT Health Protection Service and submits such endorsement to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The lessee/applicant must comply with any conditions imposed by the ACT Health Protection Service.

Note: Any substantial changes to the development required for the ACT Health Protection Service endorsement will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.

A3. EVOENERGY – APPROVAL DOES NOT TAKE EFFECT

- a) The approval does not take effect until the lessee or land custodian has obtained a Statement of Acceptance from Evoenergy in relation to electricity networks and submits the Statement of Acceptance to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The land custodian must comply with any conditions imposed on a Statement of Acceptance by Evoenergy.

Note: any substantial changes to the development required for the Evoenergy Statement of Acceptance will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.

A4. ICON WATER – APPROVAL DOES NOT TAKE EFFECT

- a) The approval does not take effect until the lessee or land custodian has obtained a Statement of Acceptance from Icon Water in relation to water and sewer networks and submits the Statement of Acceptance to the planning and land authority as satisfying this condition of approval under s165 of the *Planning and Development Act 2007*.
- b) The land custodian must comply with any conditions imposed on a Statement of Acceptance by Icon Water.

Note: any substantial changes to the development required for the Icon Water Statement of Acceptance will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.

A5. TIMEFRAME TO COMPLY WITH CONDITIONS A1, A2, A3, & A4

The lessee shall comply with conditions A1, A2, A3 & A4 within 24 months of the date of this decision.

- a) This approval will end if the lessee has not complied with Condition A1, A2, A3, & A4 within 24 months of the date of this decision.
- b) The lessee may apply to the planning and land authority in writing for an extension of time to the approved timeframe.

B. PRIOR TO CONSTRUCTION AND/OR DEMOLITION

B1. ACT HEALTH PROTECTION SERVICE

The development details a kitchen within the ground floor of the childcare facility. If the kitchen is used to produce food to be sold, or is used to prepare food provided to the children, the kitchen will require a food business license. The applicant is advised to submit a food and business registration and fitout application (with suitable details plans) to the Health Protection Service prior to construction.

B2. SEDIMENT AND EROSION CONTROL

That prior to any work on the site commencing, the applicant/lessee must submit two copies of the sediment and erosion control plan to Environment Protection Authority for approval.

B3. TREE PROTECTION

Tree protection fencing, if required, shall be erected prior to the commencement of any work on the site.

B4. VERGE MANAGEMENT

This plan is to be approved and implemented before the commencement of any work on the site, and is to be in accordance with the *City Management Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04.*

B5. TRAFFIC MANAGEMENT

A Temporary Traffic Management (TTM) Plan shall be prepared by a suitably qualified person and approved by the Manager, Traffic Management & Safety, Roads ACT, Roads and Public Transport Division, Transport Canberra and City Services (TCCS) prior to commencement of any work on the site. This plan is to address, as a minimum, measures to be employed during construction to manage all traffic, including construction traffic, in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated traffic control devices.

C. DURING CONSTRUCTION AND/OR DEMOLITION**C1. TRANSPORT CANBERRA AND CITY SERVICES**

- a) All offsite works including driveway must be constructed in accordance with TCCS Design Standards.
- b) Proposed footpath must be 1.5m wide. A clearance of 0.5m must be maintained between footpath and the block boundary.
- c) The pedestrian walkway / footpath must take precedence over the driveway.
- d) The proposed trees must be located in the middle of the new footpath and the road kerb so that trees are 1.4m from the edge of both.
- e) The official street trees for Heffernan Street are eucalypt species but there is not sufficient space for eucalypts to be planted on the Heffernan Street verge outside the new childcare centre at Block 18 Section 11. The new tree plantings should be that *Melaleuca linariifolia* selected from good quality tree stock and meet Australian Standards 2303: Tree Street Stock for Landscape Use (e.g. single trunked, with good amenity tree form and sufficient calliper to be self-supporting). The new trees will need to be maintained for a minimum of 12 months prior to formal handover to TCCS Development Review and Coordination.
- f) The new trees should also be planted in accordance with the latest TCCS planting specification for street trees to ensure best practice planting methodology (please see Urban Treescapes planting specification attached).

C2. ACT HEALTH PROTECTION SERVICE

The development details that a 24KL rainwater tank will be installed, with retained water being used to flush toilets and urinals. The applicant is advised that any outlets supplied by rainwater are clearly labelled as being provided with non-potable water and should be located in an area inaccessible to children or provided with tamperproof fittings.

C3. SEDIMENT AND EROSION CONTROL

All unsurfaced entry and exit points must be consolidated with crushed aggregate or similar extending from the road kerb to the building line.

Temporary sediment controls – comprising, as a minimum, geotextile silt fencing along the lowest points of the site and hay bale filters as required – are to be installed and maintained at least daily to prevent sediment from reaching the stormwater mains system.

C4. TREE PROTECTION

The applicant/lessee shall protect and maintain all existing trees and shrubs located on the subject site, on adjoining blocks overhanging the subject site, on the verge and unleased Territory land immediately adjacent, except for those specifically identified for removal in the approved drawings and a Tree Management Plan.

C5. VERGE MANAGEMENT

During any work undertaken on the site, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained in accordance with a Landscape Management Plan approved by the Manager, Asset Acceptance, Operational Support, Directorate Services, Transport Canberra and City Services, TCCS.

C6. TRAFFIC MANAGEMENT

At all times, the site and surrounds shall be managed in accordance with the approved Temporary Traffic Management (TTM) Plan.

C7. WASTE MANAGEMENT

All building waste is to be stored on the site in suitable receptacles and collected regularly. The lessee is to take all reasonable steps to ensure that waste, particularly wind borne litter, does not affect adjoining or adjacent properties.

D. POST CONSTRUCTION AND/OR DEMOLITION

N/A

E. ADVISORY NOTES

This application is approved with the following advisory notes. It is recommended that careful consideration be given to advisory notes prior to commencing work.

E1. ENTITY COMMENTS

The applicant is advised to carefully consider all the relevant advice (in addition to the conditions imposed) from each of the entities stated in **PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE** of this Notice of Decision throughout the process of development (prior to, during & post construction) as applicable.

E2. EVOENERGY ELECTRICITY NETWORKS

Refer to statement(s) from Evoenergy Electricity Networks at **Attachment A**.

E3. JEMENA GAS NETWORKS

Refer to statement(s) from Jemena at **Attachment B**.

E4. ICON WATER

Refer to statement(s) from Icon Water at **Attachment C**.

E5. ACT EMERGENCY SERVICE AGENCY

Refer to statement(s) from ACT Emergency Service Agency at **Attachment D**.

E6. ENVIRONMENT PROTECTION AUTHORITY

Refer to statement(s) from ACT Emergency Service Agency at **Attachment E, F, and G**.

E7. ACT HEALTH PROTECTION SERVICES

Refer to statement(s) from ACT Emergency Service Agency at **Attachment H**.

Refer to Appendix 1 for information about approvals that may be required for construction.

PART 2 REASONS FOR THE DECISION

In deciding to approve the application with conditions, the Planning and Land Authority (the Authority) firstly considered under section 119 (1) (a) of the Act whether the application meets the relevant codes, including the Industrial Zones Development code and all relevant general codes.

In relation to section 119 (2) (a), the Authority considered the advice given by each entity to which the application was referred, and is satisfied that, with the conditions set out in Part 1, approval of the application would not be inconsistent with the advice received from each entity.

In relation to section 119 (2) (b), the Authority is satisfied that this decision is consistent with the objective of the Territory Plan as in section 48 of the Act in that it is *not inconsistent with the National Capital Plan*, and that the proposal will *provide the people of the ACT with an attractive, safe and efficient environment*, by the construction of a child care centre, whilst not having a detrimental impact on the surrounding environment.

The key issues identified in the assessment are comments received by entities. Conditions have been imposed to address the key issues and ensure that the proposal is consistent with the Territory Plan and the *Planning and Development Act 2007*.

In deciding to approve the application with conditions, the Authority also considered each of the matters or issues set out in section 120 of the Act.

In relation to section 120, the Authority is satisfied that the proposed development meets all applicable objectives of the *IZ2: Industrial Mixed Use zone*;

is satisfied that the subject land is suitable for the proposed development, provided each of the conditions imposed as part of this Decision to approve the application is met;

notes that there is no environmental significance opinion required or in force for the development proposal;

notes that no written representations were received for the development proposal;

have imposed conditions of approval to this Decision pursuant to Section 162(1)(b) of the Act that reflect relevant entity advice;

notes that the subject land is not public land; and

considered the probable impacts that the proposed development may have, and propose conditions to address some of the impacts that might otherwise occur.

With the conditions imposed, and after weighing the competing interests as to whether the application should be approved, the Authority formed the view that the probable impacts that might arise from the development are adequately addressed by the conditions imposed.

EVIDENCE

Application No. 201733198

File No. 1-2017/35837

The Territory Plan zone – IZ2: Industrial Mixed Use Zone

The Development Codes – Industrial Zone Development Code

The Precinct Codes – Mitchell Precinct Map and Code

Current Crown Lease – Volume 1831 Folio 29

Representations – Nil

Entity advice - Transport Canberra and City Services, Evoenergy, Jemena, Icon Water, Emergency Services Agency, the Environment Protection Authority and the ACT Health Protection Service.

PART 3 PUBLIC NOTIFICATION AND ENTITY ADVICE

PUBLIC NOTIFICATION

Pursuant to Division 7.3.4 of the Act, the application was publicly notified from 26 February 2018 to 20 March 2018. No written representations were received during public notification.

ENTITY ADVICE

Pursuant to Division 7.3.3 of the Act, the application was referred to entities and advice was received. The referral entities' comments are as follows. A response to the advice is provided as appropriate.

TRANSPORT CANBERRA AND CITY SERVICES

On date 14 March 2018 advice was received from Transport Canberra and City Services in relation to the proposal. The advice states that the proposal is supported subject to compliance with the following conditions.

Conditions:

- *All offsite works including driveway must be constructed in accordance with TCCS Design Standards.*
- *Proposed footpath must be 1.5m wide. A clearance of 0.5m must be maintained between footpath and the block boundary.*
- *The pedestrian walkway / footpath must take precedence over the driveway.*
- *The proposed trees must be located in the middle of the new footpath and the road kerb so that trees are 1.4m from the edge of both.*
- *The official street trees for Heffernan Street are eucalypt species but there is not sufficient space for eucalypts to be planted on the Heffernan Street verge outside the new childcare centre at Block 18 Section 11. The new tree plantings should be that *Melaleuca linariifolia* selected from good quality tree stock and meet Australian Standards 2303: Tree Street Stock for Landscape Use (e.g. single trunked, with good amenity tree form and sufficient calliper to be self-supporting). The new trees will need to be maintained for a minimum of 12 months prior to formal handover to TCCS Development Review and Coordination.*
- *The new trees should also be planted in accordance with the latest TCCS planting specification for street trees to ensure best practice planting methodology (please see Urban Treescape planting specification attached).*

Standard Conditions:

Following general conditions will apply as appropriate for Works on and Use of Territory Land in addition to the above:

In accordance with the Public Unleased Land Act 2013 no work is to be undertaken on road verges and other unleased Territory Land without the approval of the Territory. Such approval must be obtained from the Senior Manager, Development Review and Coordination, TCCS by the ways of:

1. *A Letter of Design Review prior to the commencement of any work; and*
2. *A certificate of Operational Acceptance on completion of all works to be handed over to TCCS.*

Design Review and Operational Acceptance

A Letter of Design Review is required for all off-site works from the Senior Manager, Development Review and Coordination, TCCS, prior to the construction.

In order to obtain the Letter of Design Review, fully detailed drawings (civil, landscape) prepared by suitably qualified persons for all off-site works including roads, driveways, footpaths, street lighting, storm water, landscaping (and any other issues that may be found by audit of the plans) and a design report in accordance with Ref No 06: "Requirements for Design Review Submissions", must be certified by a Chartered Engineer/Landscape Architect and submitted to the Senior Manager, Development Review and Coordination, TCCS.

A Certificate of Operational Acceptance on completion of the works is required from the Senior Manager, Development Review and Coordination, TCCS, prior to the issue of a Certificate of Occupancy.

Similarly a Chartered Engineer/Landscape Architect should certify compliance with TCCS Ref No 08: "Requirements for Works as Executed Quality Records Requirements" when the request for Operational Acceptance is made to the Senior Manager, Development Review and Coordination, TCCS on completion of all off-site works

A Waste Management Plan in accordance with the Development Control Code for Best Practice Waste Management in the ACT should also be included if not approved at the Development Application stage.

Temporary Traffic Management (TTM)

A TTM plan approval from the Manager, Traffic Management & Safety, Roads ACT, TCCS. All times during construction the site and surrounds shall be managed in accordance with a Temporary Traffic Management Plan, prepared by a suitably qualified person and approved by the Manager, Traffic Management & Safety. This plan is to address, as a minimum, measures to be employed during construction to manage all traffic, including construction traffic, in and around the site, provision of safe pedestrian movement around the site, the provision of parking for construction workers, and associated traffic control devices.

Landscape Management & Protection Plan (LMPP)

LMPP approval from the Senior Manager, Development Review and Coordination, TCCS. During construction, all existing vegetation (trees, shrubs and grass) located on the verge and unleased Territory land immediately adjacent to the development shall be managed, protected and maintained in accordance with the Landscape Management Protection Plan (LMPP) approved by the Senior Manager, Development Review and Coordination, TCCS. This plan is to be implemented before the commencement of works, including demolition on the site and is to be in accordance with TCCS Guidelines for the Protection of Public Landscape Assets Adjacent to Development Works-REF-04.

Use of Verges or other Unleased Territory land

In accordance with the Public Unleased Land Act 2013, road verges and other unleased Territory land must not be used for carrying out of works, including storage of materials or waste, without prior approval of the Territory. Such approval can be obtained from Licensing and Compliance, City Services, Parks and Territory Services, TCCS.

Repair of Damage to Public Assets

The applicant/lessee is held responsible for all damages to ACT Government assets (including footpaths) caused by the development and they must properly repair any damages to those assets. Before work commences, they should notify TCCS of any existing damage to public facilities.

Notice of Commencement of Construction

Notice of Commencement for the Works in Unleased Territory Land shall be submitted to the Senior Manager, Development Review and Coordination, TCCS one week prior to the commencement of works. The Notice shall also include the confirmation of any protective measures installed in accordance with the approved LMPP and the programmed implementation of TTM.

Matters raised have been incorporated as either conditions of approval or advice.

EVOENERGY

On date 7 March 2018 advice was received from Evoenergy in relation to the proposal. The advice states that the proposal is not supported.

- *A statement of non-compliance was issued (**Attachment A**).*

Response:

Matters raised have been incorporated as conditions of approval – refer to condition A3 in Part 1 of this decision.

JEMENA

On date 1 March 2018 advice was received from Jemena in relation to the proposal. The advice states that the proposal is supported.

- *A statement of conditional compliance was issued (**Attachment B**).*

Response:

Matters raised have been incorporated as either conditions of approval or advice.

ICON WATER

On date 22 February 2018 advice was received from Icon Water in relation to the proposal. The advice states that the proposal is not supported.

- *A statement of non-compliance was issued (**Attachment C**).*

Response:

Matters raised have been incorporated as conditions of approval – refer to condition A4 in Part 1 of this decision.

EMERGENCY SERVICES AGENCY

On date 7 March 2018 advice was received from the Emergency Services Agency in relation to the proposal. The advice states that the proposal is supported.

- *A statement of conditional compliance was issued (**Attachment D**).*

Response:

Matters raised have been incorporated as either conditions of approval or advice.

ENVIRONMENT PROTECTION AUTHORITY

On date 15 March 2018 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that the proposal is not supported.

- *Relevant advice is attached (**Attachment E**).*

On date 18 April 2018 further advice was received from the Environment Protection Authority in relation to the proposal. The advice states that the proposal is not supported and that the proposal should be referred to ACT Health Protection Services for comment.

- *Relevant advice is attached (**Attachment F**).*

On date 27 April 2018 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that further information/amendments are required.

- *Relevant advice is attached (**Attachment G**).*

On date 16 May 2018 advice was received from the Environment Protection Authority in relation to the proposal. The advice states that the proposal is not supported and have provided the following statement:

“To clarify, the Environment Protection Authority does not support the Development Application and recommends the application be refused. Should the Planning Authority choose to approve the application, the applicant should first be required to complete an Environmental Assessment that includes an Air Quality Impact Assessment (AQIA) that assesses permitted uses in the zone and potential sources of pollution impacting the subject site. The report should refer to activities and potential pollutants and odours from neighbouring sites such as the landscape supply business to the north on block 44 section 7 Mitchell and demonstrate that the site is suitable for the proposed activity to ensure human health is not put at unnecessary risk.

The report should also demonstrate that the proposed use will not jeopardise the use of surrounding land for any industrial purposes.”

Response:

Matters raised have been incorporated as conditions of approval or advice – refer to condition A1 in Part 1 of this decision.

ACT HEALTH PROTECTION SERVICE

On date 1 May 2018 advice was received from Icon Water in relation to the proposal. The advice states that the proposal is not supported.

- *A statement of non-support was issued (**Attachment H**).*

Response:

Matters raised have been incorporated as conditions of approval or advice – refer to condition A2 in part 1 of this decision

PART 4 ADMINISTRATIVE INFORMATION

DATE THAT THIS APPROVAL TAKES EFFECT

Unless a condition of approval provides for otherwise this approval is effective from the day after the date of this notice. The effective date for development applications approved subject conditions could also be adjusted if the approval is reconsidered by the planning and land authority or if an application is made to the ACT Civil and Administrative Tribunal.

Pursuant to section 184 of the Act, this approval will expire if:

- the development or any stage of the development is not started within two years after the day the approval takes effect;
- the development is not finished two years after the day the development begins; or
- the development approval relates to land comprised in a lease that requires the development to be completed on a stated date – the date stated in the lease for completion of the development, or the approval is revoked under section 189 of the Act.

CONDITIONAL APPROVAL

This approval will expire if, in accordance with Section 165(3)(d) of the Act, a condition has deferred the effect of the development approval **and** imposed a time frame during which another approval must be revoked, amended or given, and the time frame has expired.

Under section 184 of the Act, the applicant may apply to the planning and land authority to extend the prescribed period to finish the development, but such an application must be made within the original period specified for completion.

A development approval, to which section 184 of the Act applies, continues unless the approval ends under sections 184, 185, 186 or 187 of the Act.

INSPECTION OF THE APPLICATION AND DECISION

A copy of the application and the decision can be inspected between 8:30am and 4:30pm weekdays at the Environment, Planning and sustainable Development Directorate Dickson Customer Service Centre at 16 Challis Street, Dickson, ACT.

RECONSIDERATION OF THE DECISION

If the applicant is not satisfied with the decision to approve the application subject to conditions, they are entitled to apply to the planning and land authority for reconsideration within 20 working days of being told of this decision or within any longer period allowed by the planning and land authority.

To submit an application for reconsideration, documents must be provided electronically by email to epdcustomerservices@act.gov.au or provided at the customer service centre on a CD/DVD. The delegate of the Authority reconsidering the decision must be different from, and senior to, the original decision maker. An application for reconsideration does not prevent an application for a review of the same decision being made to the ACT Civil and Administrative Tribunal. Application forms and further information about reconsideration are available from the planning and land authority's website and Customer Service Centres.

REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

Decisions that are reviewable by the ACAT are identified in Schedule 1 of the *Planning and Development Act 2007*, except for those precluded under Schedule 3 of the *Planning and Development Regulation 2008* – Matters exempt from third-party ACAT review.

FURTHER APPROVALS FOR CONSTRUCTION

The Notice of Decision grants development approval, but does not cover building approval or approvals which may be required during construction, which commonly include the following.

BUILDING APPROVAL

Most building work requires building approval to ensure it complies with building laws such as the Building Code of Australia. If this applies to this proposal, the lessee should engage a private building certifier to assess and approve the building plans before construction begins. A list of licensed certifiers and information about building approval is available from the planning and land authority's website and Customer Service Centres.

PERMITTED VARIATIONS TO APPROVED DEVELOPMENT

Under section 35 of the Planning and Development Regulation 2008 the development as built may vary from the approved development in accordance with section 35 and the permitted construction tolerances and other permitted variations identified in Schedule 1A of that regulation.

Note 1 The development may still need building approval, or further building approval, under the *Building Act 2004*

Note 2 The development must also comply with the lease for the land on which it is carried out.

"TREE DAMAGING ACTIVITY" APPROVAL

A Tree Management Plan under the *Tree Protection Act 2005* is required for approval where it is proposed to undertake groundwork within the tree protection zone of a protected tree or likely to cause damage to, or remove, any trees defined as protected trees by that Act. More information is available from Transport Canberra and City Services.

USE OF VERGES OR OTHER UNLEASED TERRITORY LAND

In accordance with the *Public Unleased Land Act of 2013*, road verges and other unleased Territory land must not be used for the carrying out of works, including the storage of materials or waste, without prior approval of the Territory. Approval can be obtained from Transport Canberra and City Services.

WORKS ON UNLEASED TERRITORY LAND – DESIGN AND OPERATIONAL ACCEPTANCE

In accordance with the *Public Unleased Land Act of 2013*, no work can be undertaken on unleased Territory land without the approval of the Territory. Such approval must be obtained from the Manager Asset Acceptance, Asset Services Group, TCCS by way of:

1. a certificate of design acceptance prior to the commencement of any work and
2. a certificate of operational acceptance on completion of all works to be handed over to TCCS

Works on unleased Territory land may include the construction or upgrading of driveway verge crossings, public footpaths, roads, street lighting, stormwater works, waste collection amenities, street signs and line marking, road furniture and landscaping.

A certificate of compliance under s296 of the *Planning and Development Act 2007* may not be issued unless a certificate of design acceptance **AND** a certificate of operational acceptance has both been obtained from TCCS.

CONSTRUCTION REQUIREMENTS

The following information are some key requirements that apply to building work in the Territory. Other requirements may apply to this development.

DEMOLITION AND ASBESTOS MANAGEMENT

Demolition and asbestos management must be undertaken in accordance with the *Building Act 2004* (including the Building Code of Australia) and the *Dangerous Substances Act 2004*. Information about demolition and asbestos management is available from the planning and land authority's web site and Customer Service Centres.

ENVIRONMENT PROTECTION

All building work must be undertaken in accordance with the *Environment Protection Act 1997*, particularly but not exclusively in relation to noise and pollution control. More information is available from the Environment Protection Authority.

REPAIR OF DAMAGE TO PUBLIC ASSETS

The applicant/lessee is held responsible for all damage to ACT Government assets (including footpaths) caused by the development and they must properly repair any damage to those assets. Before work commences, they should notify Transport Canberra and City Services of any existing damage to public facilities.

UTILITY ASSETS RETENTION

The lessee should obtain a plant location advice from ActewAGL to avoid conflict with existing plant or electrical easements. The lessee will be responsible for the costs associated with the relocation of assets, if necessary. The lessee is to ensure that the water service and water meter are retained in position and in good condition. Icon Water's water meters are accountable items and must not be removed from the site or otherwise disposed of.

WATER RESTRICTIONS AND FILLING OF NEW POOLS, PONDS AND FOUNTAINS

Water restrictions or permanent water conservation measures may be in force in the ACT and may prohibit or affect the filling of new pools, ponds and fountains using potable (tap) water drawn from Icon Water's potable water supply system. Applicants wishing to use water drawn from the potable water supply system to fill a new pool, pond or fountain are advised to first contact Icon Water's conservation office on (02) 62483131. Where water restrictions or permanent water conservation measures would otherwise prevent or affect the filling of a new pool, pond or fountain, it might be possible to obtain an exemption to fill the pool, pond or fountain using potable water.

DRAINAGE

The Building Code of Australia contains provisions affecting surface drainage and the height of finished floor levels. These may apply to this proposal.

REVIEW OF THE DECISION

The following notes are provided in accordance with regulation 7 of the *ACT Civil and Administrative Tribunal Regulation 2009*. Refer to the Review by the ACT Civil and Administrative Tribunal (ACAT) section of the Notice of Decision for information about its relevance to this development application.

CONTACT DETAILS

The review authority is the ACT Civil and Administrative Tribunal (ACAT).

| Location | Contact details |
|--|--|
| ACT Civil and Administrative Tribunal Level 4, 1 Moore Street CANBERRA CITY ACT 2601 | Website: www.acat.act.gov.au Email: tribunal@act.gov.au Telephone: (02) 6207 1740 Facsimile: (02) 6205 4855 Post: GPO Box 370, CANBERRA, ACT, 2601 |

POWERS OF THE ACAT

The ACAT is an independent body. It can review on their merits a large number of decisions made by ACT Government ministers, officials and statutory authorities. The ACAT can agree with, change or reject the original decision, substitute its own decision or send the matter back to the decision maker for reconsideration in accordance with ACAT recommendations.

APPLICATIONS TO THE ACAT

To apply for a review, obtain an application form from the ACAT. You can also download the form from the ACT Legislation Register <http://www.legislation.act.gov.au/af/2009-278/current/pdf/2009-278.pdf>.

If you are applying on behalf of an organisation or association of persons, whether incorporated or not, the Tribunal in deciding whether to support this application will consider the effect of the decision being reviewed on the interests of the organisation or association in terms of its objects or purposes. A copy of the relevant documents will be required to be lodged with the Tribunal.

TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from the date of this Notice of decision. The time limit can be extended in some circumstances (refer to sections 10 (2), 10(3), 25(1)(e) and 25(2) of the *ACT Civil & Administrative Tribunal Act 2008*; section 7 of the *ACT Civil and Administrative Tribunal Procedure Rules 2009 (No 2)*; and section 409 of the *Planning and Development Act 2007*).

FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Write to: The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.

TIME LIMITS FOR REVIEWS OF DECISIONS

The ACAT is required to decide appeals in land and planning and tree protection cases within 120 days after the lodging of the appeal, unless that period is extended by the ACAT upon it being satisfied that it is in the interests of justice to do so.

FORMS OF LEGAL, FINANCIAL AND OTHER ADVICE AND ASSISTANCE

The following organisations can provide advice and assistance if you are eligible:

- ACT Attorney-General, write to The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601;
- the ACT Legal Aid Office, telephone 1300 654314;
- Legal Advice Bureau, telephone (02) 6247 5700;
- ACT Council of the Ageing, telephone (02) 6282 3777;
- Welfare Rights and Legal Centre, telephone (02) 6247 2177; and
- Environmental Defender's Office (ACT), telephone (02) 6247 9420.

AWARDING OF COSTS

You will have to pay any costs involved in preparing or presenting your case. The ACAT also has the power to award costs against a party if the party contravenes a direction of the ACAT and the ACAT considers it in the interests of justice to make such an order. This power is in addition to the power of the ACAT to strike out a party and to dismiss an application for failure to comply with the ACAT's directions.

ACCESS TO DOCUMENTS ABOUT THE DECISION

You may apply for access to any documents you consider relevant to this decision under the ACT Freedom of Information Act 1989. Information about Freedom of information requests is available on the planning and land authority's web site or by contacting us by phone on (02) 6207 1923.

PROCEDURES OF THE ACAT

The procedures of the ACAT are outlined on the ACAT's website, including in the Guide to the Land and Planning Division and the Guide to the Hearing. Contact the ACAT for alternative ways to access information about the ACAT's procedures.

TRANSLATION AND INTERPRETER SERVICES

The ACT Government's translation and interpreter service runs 24 hours a day, every day of the week. Telephone 131 450.

| | |
|------------|---|
| ENGLISH | If you need interpreting help, telephone: |
| ARABIC | : إذا احتجت لمساعدة في الترجمة الشفوية، إتصل برقم الهاتف: |
| CHINESE | 如果你需要传译员的帮助，请打电话: |
| CROATIAN | Ako trebate pomoć tumača telefonirajte: |
| GREEK | Αν χρειάζεστε διερμηνέα τηλεφωνήστε στο |
| ITALIAN | Se avete bisogno di un interprete, telefonate al numero: |
| MALTESE | Jekk għandek bżonn l-għajjuna t'interpretu, çempel: |
| PERSIAN | : اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید: |
| PORTUGUESE | Se você precisar da ajuda de um intérprete, telefone: |
| SERBIAN | Ako vam je potrebna pomoć prevodioca telefonirajte: |
| SPANISH | Si necesita la asistencia de un intérprete, llame al: |
| TURKISH | Tercümana ihtiyacımız varsa lütfen telefon ediniz: |
| VIETNAMESE | Nếu bạn cần một người thông-ngôn-hãy gọi điện-thoại: |

TRANSLATING AND INTERPRETING SERVICE**131 450**

Canberra and District - 24 hours a day, seven days a week



ACT
Government

Environment, Planning and
Sustainable Development

Notice of decision on Reconsideration

Division 7.3.10 of the *Planning and Development Act 2007*

| | | |
|---|--|------------------|
| DA NO: 201733198 | DATE RECONSIDERATION LODGED: 15 January 2019 | |
| DATE OF DECISION: 31 January 2019 | | |
| BLOCK: 18 | SECTION: 11 | SUBURB: Mitchell |
| STREET NO AND NAME: Corner of Heffernan Street and Darling Street | | |
| APPLICANT: Konstantinou Developments Pty Ltd | | |
| Lessees: Konstantinou Developments Pty Ltd | | |

THE APPLICATION

This application seeks reconsideration of condition A2 applicable to the conditional approval for DA-201733198, as formally corrected by the planning and land authority on 18 September 2018.

Condition A2 reads as follows:

• A2. ACT HEALTH PROTECTION SERVICE – APPROVAL DOES NOT TAKE EFFECT

- a. *The approval does not take effect until the lessee/applicant has prepared and submitted an air quality report to the satisfaction of the ACT Health Protection Service. The report must be prepared by a consultant listed on the Clean Air Society of Australia and New Zealand (CASANZ) directory <https://www.casanz.org.au/directory/>.*

Such a report shall discuss and demonstrate that the development and subsequent use of the site as a Childcare Centre in the locality will not create an unacceptable risk to the health and safety of children and vulnerable users thereof. The report must discuss the effects of potential expansion of permitted activities by surrounding businesses and of future land uses in the surrounding area on air quality. All previous investigations upon which the report is based must be discussed within the report and copies of these reports must be provided to ACT Health Protection Service. The lessee/applicant must comply with any additional conditions imposed by the ACT Health Protection Service as a result of the findings of this report.

- b. *The lessee/applicant must ensure that all water outlets supplied by rainwater are clearly labelled as being provided with non-potable water and must also ensure that they are located in areas inaccessible to children OR provided with tamperproof fittings.*
- c. *The lessee/applicant must ensure that a food business license is obtained from the Health Protection Service prior to completion of the development.*

Note: Evidence of compliance with this condition must be provided to the planning and land authority. Any substantial changes to the development required for the ACT Health Protection Service endorsement will need to be submitted for the approval of the planning and land authority with an application to amend the approval under s197 of the Planning and Development Act 2007.

THE DECISION

I, Brett Phillips, delegate of the planning and land authority, pursuant to section 193 of the *Planning and Development Act 2007*, hereby **confirm the formally corrected decision** of the planning and land authority of 18 September 2018.

PUBLIC NOTIFICATION

Pursuant to Division 7.3.10 of the Act, written notice of the reconsideration application was not required as no written representations were received for the original application notified 26 February 2018 to 20 March 2018.

REASONS FOR THE DECISION

The original decision dated 21 May 2018, as formally corrected on 18 September 2018, is confirmed based on advice received from entities, i.e. the Health Protection Service (HPS) and the Environment Protection Authority (EPA).

The reconsideration application was referred to the ACT Health Protection Service and Environment Protection Authority on 15 January 2019 and comments were due 31 January 2019.

On 29 January 2019 the HPS provided comments to advise that they do not support the removal of condition A2. A copy of HPS' advice is attached to this decision (**Attachment A**).

On 29 January 2019 the EPA provided comments to advise that they do not support the removal of condition A2. A copy of EPA's advice is attached to this decision (**Attachment B**).

The planning and land authority considered the advice of the HPS and the EPA and concluded that, by altering or removing condition A2 from the Notice of Decision, there is potential for the matters as identified by the entities to go unmanaged.

Therefore, condition A2 in the formally corrected Notice of Decision dated 18 September 2018 is confirmed.

In making this decision, no planning reasons were identified for this decision. This decision is solely based on entity advice received.

INSPECTION OF THE APPLICATION AND DECISION

A copy of the application and the decision can be inspected between 8:30am and 4:30pm weekdays at the Environment and Planning Dickson Customer Service Centre at 16 Challis Street, Dickson, ACT.

REVIEW BY THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

Decisions that are reviewable by the ACAT are identified in Schedule 1 of the *Planning and Development Act 2007*, except for those precluded under Schedule 3 of the *Planning and Development Regulations 2008* – Matters exempt from third-party ACAT review.

EVIDENCE

Application No. - 201733198 & Reconsideration application
The Territory Plan Zone – IZ2 Industrial Mixed Use
The Development Codes – Industrial Zones Development Code
Current Crown Lease – Volume 1831 Folio 29
Representations – Not applicable
Entity advice- ACT Health Protection Service & the Environment Protection Authority

DELEGATE



Brett Phillips
Delegate of the planning and land authority
Environment, Planning and Sustainable Development Directorate

31 January 2019

CONTACT

DAEnquiries@act.gov.au

APPENDIX 1

REVIEW OF THE DECISION

The following notes are provided in accordance with regulation 7 of the *ACT Civil and Administrative Tribunal Regulation 2008*. Refer to the Review by the ACT Civil and Administrative Tribunal (ACAT) section of the Notice of decision for information about its relevance to this development application.

CONTACT DETAILS

The review authority is the ACT Civil and Administrative Appeals Tribunal (ACAT).

| Location | Contact details |
|---|--|
| ACT Civil and Administrative Tribunal Level 4, 1 Moore Street (the Health building) CANBERRA CITY ACT 2601 | Website: www.acat.act.gov.au Email: tribunal@act.gov.au Telephone: (02) 6207 1740 Facsimile: (02) 6205 4855 Post: GPO Box 370, CANBERRA, ACT, 2601 Document exchange: DX 5691 |

POWERS OF THE ACAT

The ACAT is an independent body. It can review on their merits a large number of decisions made by ACT Government ministers, officials and statutory authorities. The ACAT can agree with, change or reject the original decision, substitute its own decision or send the matter back to the decision maker for reconsideration in accordance with ACAT recommendations.

APPLICATIONS TO THE ACAT

To apply for a review, obtain an application form from the ACAT. You can also download the form from the ACT Legislation Register <http://www.legislation.act.gov.au/af/2009-278/current/pdf/2009-278.pdf>.

If you are applying on behalf of an organisation or association of persons, whether incorporated or not, the Tribunal in deciding whether to support this application will consider the effect of the decision being reviewed on the interests of the organisation or association in terms of its objects or purposes. A copy of the relevant documents will be required to be lodged with the Tribunal.

TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from receiving this Notice of decision. The time limit can be extended in some circumstances. Check with the ACAT for more details.

FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee of not less than \$178 (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Write to: The Director General, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.

TIME LIMITS FOR REVIEWS OF DECISIONS

The ACAT is required to decide appeals in land and planning and tree protection cases within 120 days after the lodging of the appeal, unless that period is extended by the ACAT upon it being satisfied that it is in the interests of justice to do so.

FORMS OF LEGAL, FINANCIAL AND OTHER ADVICE AND ASSISTANCE

The following organisations can provide advice and assistance if you are eligible:

- ACT Attorney-General, write to The Director General, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601;
- the ACT Legal Aid Office, telephone 1300 654314;
- Legal Advice Bureau, telephone (02) 6247 5700;
- ACT Council of the Ageing, telephone (02) 6282 3777; and
- Welfare Rights and Legal Centre, telephone (02) 6247 2177.

AWARDING OF COSTS

You will have to pay any costs involved in preparing or presenting your case. The ACAT also has the power to award costs against a party if the party contravenes a direction of the ACAT and the ACAT considers it in the interests of justice to make such an order. This power is in addition to the power of the ACAT to strike out a party and to dismiss an application for failure to comply with the ACAT's directions.

ACCESS TO DOCUMENTS ABOUT THE DECISION

You may apply for access to any documents you consider relevant to this decision under the ACT Freedom of Information Act 1989. Information about Freedom of information requests is available on the planning and land authority's web site or by contacting us by phone on (02) 6207 1923.

PROCEDURES OF THE ACAT

The procedures of the ACAT are outlined on the ACAT's website, including in the Guide to the Land and Planning Division and the Guide to the Hearing. Contact the ACAT for alternative ways to access information about the ACAT's procedures.

TRANSLATION AND INTERPRETER SERVICES

The ACT Government's translation and interpreter service runs 24 hours a day, every day of the week. Telephone 131 450.

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| ENGLISH | If you need interpreting help, telephone: |
| ARABIC | : إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف : |
| CHINESE | 如果你需要传译员的帮助，请打电话： |
| CROATIAN | Ako trebate pomoć tumača telefonirajte: |
| GREEK | Αν χρειάζεστε διερμηνέα τηλεφωνήσετε στο |
| ITALIAN | Se avete bisogno di un interprete, telefonate al numero: |
| MALTESE | Jekk għandek bżonn l-għajjuna t'interpretu, ċempel: |
| PERSIAN | : اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید: |
| PORTUGUESE | Se você precisar da ajuda de um intérprete, telefone: |
| SERBIAN | Ako vam je potrebna pomoć prevodioca telefoniрајте: |
| SPANISH | Si necesita la asistencia de un intérprete, llame al: |
| TURKISH | Tercümana ihtiyacınız varsa lütfen telefon ediniz: |
| VIETNAMESE | Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại: |

TRANSLATING AND INTERPRETING SERVICE

131 450

Canberra and District - 24 hours a day, seven days a week